

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Ross	Team: Squad #9	CCRB Case #: 202000032	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/01/2020 3:31 AM, Wednesday, 01/01/2020 6:18 AM	Location of Incident: Front of § 87(2)(b) 73rd Precinct stationhouse	Precinct: 73	18 Mo. SOL 7/1/2021	EO SOL 2/15/2022	
Date/Time CV Reported Thu, 01/02/2020 2:21 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/02/2020 2:21 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Philip Tantillo	09988	955560	INT CIS
2. SGT Arthur Mccarthy	04612	949289	INT CIS
3. POM Ryan Grandison	08162	965732	073 PCT
4. POM Christophe Furegno	12784	934891	INT CIS
5. SGT Junkao Zhang	00000	937788	PSA 8
6. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.SGT Arthur Mccarthy	Abuse: Outside of § 87(2)(b) in Brooklyn, Sergeant Arthur Mccarthy stopped § 87(2)(b)	
B.POM Christophe Furegno	Abuse: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno questioned § 87(2)(b)	
C.POM Christophe Furegno	Discourtesy: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno spoke discourteously to § 87(2)(b)	
D.POM Christophe Furegno	Force: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno hit § 87(2)(b) against a vehicle.	
E.POM Christophe Furegno	Abuse: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno searched § 87(2)(b)	
F.POM Christophe Furegno	Abuse: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno frisked § 87(2)(b)	
G.SGT Arthur Mccarthy	Abuse: Outside of § 87(2)(b) in Brooklyn, Sergeant Arthur Mccarthy refused to provide his name to § 87(2)(b)	
H.POM Christophe Furegno	Abuse: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno refused to provide his name to § 87(2)(b)	
I.POM Ryan Grandison	Abuse: Outside of § 87(2)(b) in Brooklyn, Police Officer Ryan Grandison refused to provide his name to § 87(2)(b)	
J.POM Philip Tantillo	Abuse: Outside of § 87(2)(b) in Brooklyn, Police Officer Philip Tantillo refused to provide his name to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
K.SGT Arthur Mccarthy	Abuse: Outside of § 87(2)(b) in Brooklyn, Sergeant Arthur Mccarthy refused to provide his shield number to § 87(2)(b)	
L.POM Christophe Furegno	Abuse: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno refused to provide his shield number to § 87(2)(b)	
M.POM Ryan Grandison	Abuse: Outside of § 87(2)(b) in Brooklyn, Police Officer Ryan Grandison refused to provide his shield number to § 87(2)(b)	
N.SGT Arthur Mccarthy	Abuse: Outside of § 87(2)(b) in Brooklyn, Sergeant Arthur Mccarthy failed to provide § 87(2)(b) with a business card.	
O. An officer	Abuse: At the 73rd Precinct stationhouse, an officer did not process § 87(2)(b)'s complaint regarding officers.	
P.SGT Junkao Zhang	Abuse: At the 73rd Precinct stationhouse, Sergeant Junkao Zhang did not process § 87(2)(b)'s complaint regarding an officer.	
Q.SGT Arthur Mccarthy	Abuse: At the 73rd Precinct stationhouse, Sergeant Arthur Mccarthy refused to provide his name to § 87(2)(b)	
R.SGT Arthur Mccarthy	Abuse: At the 73rd Precinct stationhouse, Sergeant Arthur Mccarthy refused to provide his shield number to § 87(2)(b)	
S.SGT Arthur Mccarthy	Abuse: At the 73rd Precinct stationhouse, Sergeant Arthur Mccarthy did not process § 87(2)(b)'s complaint regarding officers.	
§ 87(4-b) § 87(2)(g)		

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via telephone on January 2, 2020.

On January 1, 2020, at approximately 3:31 AM, § 87(2)(b)'s son, § 87(2)(b) was returning from work to his home, located at § 87(2)(b). He was alone. § 87(2)(b) crossed through South Pacific Playground. Sgt. Arthur McCarthy of Criminal Intelligence Section, who was with PO Christopher Furegno, and PO Philip Tantillo of Criminal Intelligence Section (all working out of the 73rd Precinct), and PO Ryan Grandison of the 73rd Precinct, then stopped § 87(2)(b) outside of § 87(2)(b) in Brooklyn (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Furegno allegedly asked § 87(2)(b) "Where are the guns?" (**Allegation B: Abuse of Authority**, § 87(2)(g)). When § 87(2)(b) explained that his father worked for FDNY, PO Furegno allegedly said to § 87(2)(b) "Fuck your father" (**Allegation C: Discourtesy**, § 87(2)(g)). PO Furegno also allegedly pushed § 87(2)(b) against a vehicle (**Allegation D: Force**, § 87(2)(g)). Subsequently, PO Furegno searched § 87(2)(b)'s backpack (**Allegation E: Abuse of Authority**, § 87(2)(g)) and then began to frisk § 87(2)(b) (**Allegation F: Abuse of Authority**, § 87(2)(g)). Sgt. McCarthy, PO Furegno, PO Tantillo, and PO Grandison also allegedly refused to provide their names to § 87(2)(b) (**Allegations G through J: Abuse of Authority**, § 87(2)(g)) and Sgt. McCarthy, PO Furegno, and PO Grandison allegedly refused to provide § 87(2)(b) with their shield numbers (**Allegations K through M: Abuse of Authority**, § 87(2)(g)). The officers then received a radio communication pertaining to an officer in distress, and they departed. The officers did not issue a summons to or arrest § 87(2)(b). However, Sgt. McCarthy failed to provide § 87(2)(b) with a business card (**Allegation N: Abuse of Authority**, § 87(2)(g)).

Later the same morning, at approximately 6:18 AM, § 87(2)(b) and § 87(2)(b) visited the 73rd Precinct stationhouse. There, an unidentified officer and Lt. Junkao Zhang of PSA 8 (formerly a sergeant assigned to the 73rd Precinct) allegedly refused to process § 87(2)(b)'s complaint against officers (**Allegation O: Abuse of Authority**, § 87(2)(g)); **Allegation P: Abuse of Authority**, § 87(2)(g)). At the stationhouse, § 87(2)(b) also spoke with Sgt. McCarthy, who allegedly refused to provide his name (**Allegation Q: Abuse of Authority**, § 87(2)(g)) and shield number (**Allegation R: Abuse of Authority**, § 87(2)(g)). Sgt. McCarthy also allegedly refused to process § 87(2)(b)'s complaint about the earlier incident involving § 87(2)(b) (**Allegation S: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) then departed from the stationhouse.

§ 87(4-b) § 87(2)(g)

The investigation obtained BWC videos recorded by PO Furegno and PO Tantillo and surveillance video from the 73rd Precinct stationhouse.

This case was reassigned from Inv. Finch to Inv. Ross on March 10, 2021.

Findings and Recommendations

Allegation (A) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Sergeant Arthur McCarthy stopped § 87(2)(b)

§ 87(2)(b) stated that as he walked home from a subway station, he noticed an unmarked vehicle following him. Nervous, he tried to evade it. He crossed through South Pacific Playground, located between Dean Street and Pacific Street. § 87(2)(b) was aware that the park was closed, but he entered the park because he was afraid of being followed. When § 87(2)(b) exited the park, the same unmarked vehicle came to a stop next to him. Sgt. McCarthy, PO Furegno, PO Grandison, and PO Tantillo exited the vehicle and approached § 87(2)(b) stopping him.

It is undisputed that these four officers stopped § 87(2)(b). PO Tantillo and PO Furegno both recorded BWC videos capturing the interactions (Board Review 01 and 02).

Sgt. McCarthy and his fellow officers testified that the park through which § 87(2)(b) crossed is closed after dark. Signs posted at South Pacific Playground confirm that the park is closed from 9:00 PM until 6:00 AM (Board Review 03).

According to NYS Penal Law 140.05, a person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises (Board Review 04). Further, according to *People v. De Bour*, 40 N.Y.2d 210 (1976), where a police officer entertains a reasonable suspicion that a particular person has committed, is committing or is about to commit a crime, an officer may forcibly stop and detain that person (Board Review 05).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno questioned § 87(2)(b)

§ 87(2)(b) stated that when the four officers approached him, PO Furegno immediately asked him, “Where are the guns?”

As addressed in further detail below, in the analyses of Allegations E and F, Sgt. McCarthy, PO Furegno, and PO Tantillo testified that they stopped § 87(2)(b) due to this suspicion that he might have been involved in the discharging of a firearm nearby. (PO Grandison had no recollection of this incident.) However, PO Furegno did not recall asking § 87(2)(b) “Where are the guns?” and he did not remember if he or any other officer asked, using any phrasing, if § 87(2)(b) was in possession of a firearm. Likewise, neither Sgt. McCarthy, nor PO Tantillo, nor PO Grandison remembered any officer asking § 87(2)(b) “Where are the guns?” or any similar question.

According to the ruling in *De Bour*, an officer who has founded suspicion that criminal activity is afoot may ask pointed and accusatory questions. Further, that ruling defines founded suspicion as a lower standard than reasonable suspicion.

§ 87(2)(g)

Allegation (C) Discourtesy: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno spoke discourteously to § 87(2)(b)

According to § 87(2)(b) when PO Furegno asked for identification, § 87(2)(b) said that he had done nothing wrong and that his father worked for § 87(2)(b). PO Furegno responded, “I don’t care who your father is. I don’t care who your father works for. Fuck your father. I want your ID.”

PO Furegno did not recall any specific statements he made to § 87(2)(b) or which § 87(2)(b) made. He did not recall if § 87(2)(b) said that his father worked for § 87(2)(b) and he did not remember saying, “Fuck your father,” or using any profanity toward § 87(2)(b). Additionally, neither Sgt. McCarthy, nor PO Tantillo, nor PO Grandison recalled PO Furegno or any officer making any such remark or using profanity in any context.

As noted, both PO Furegno and PO Tantillo recorded BWC videos during this incident. PO Furegno activated his BWC earlier. His BWC video (Board Review 02) shows PO Furegno exiting a vehicle and approaching § 87(2)(b). PO Tantillo already stands in front of § 87(2)(b). PO Grandison approaches at the same time as PO Furegno, and Sgt. McCarthy approaches last. The first 30 seconds of this video include no audio, but § 87(2)(b) appears to speak only to PO Tantillo. When audio begins at the 30 second mark, § 87(2)(b) hands his identification to PO Tantillo. The remainder of the video includes audio and does not capture PO Furegno (or any officer) using profanity toward § 87(2)(b). PO Tantillo began recording BWC video after PO Furegno, and his video captured no statements other than those shown in PO Furegno’s video.

PO Furegno reviewed his BWC video during his CCRB interview. He believed that this video captured the entirety of his interaction with § 87(2)(b) and that there was no earlier interaction preceding the events captured in his video. Additionally, the video shows PO Grandison and Sgt. McCarthy approaching § 87(2)(b) after PO Tantillo and PO Furegno, consistent with PO Furegno’s testimony that this was the beginning of the interaction. Nonetheless, between the video’s 15 second mark and 30 second mark, when no audio is available, PO Furegno is in a position both to hear § 87(2)(b)’s remarks and to speak to § 87(2)(b). § 87(2)(g)

§ 87(2)(g)

Allegation (D) Force: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno hit § 87(2)(b) against a vehicle.

§ 87(2)(b) stated that after an officer instructed him to take his hands out of his pockets, PO Furegno pushed him backward, against the rear of a parked vehicle. § 87(2)(b)’s back struck the right side of the vehicle’s trunk.

PO Furegno did not remember ever pushing § 87(2)(b) and neither Sgt. McCarthy, nor PO Tantillo, nor PO Grandison remembered PO Furegno doing so.

As noted, PO Furegno's BWC video (Board Review 02) appears to show the entirety of his interaction with § 87(2)(b). The video does not capture PO Furegno ever pushing § 87(2)(b). Instead, it shows that § 87(2)(b) was already at the rear of a parked vehicle when PO Furegno approached him.

§ 87(2)(g)

Allegation (E) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno searched § 87(2)(b)

§ 87(2)(b) testified that PO Furegno pulled his backpack from his back. The backpack contained § 87(2)(b)'s work clothes, schoolbooks, and sneakers. PO Furegno opened all of the compartments of § 87(2)(b)'s backpack and removed all of its contents. PO Furegno also reached into § 87(2)(b)'s jacket and pants pockets.

During his CCRB interview, PO Furegno provided the context for this interaction. He stated that while on patrol with his fellow officers, from inside of their vehicle, he heard gun shots in the vicinity of South Pacific Playground. PO Furegno did not recall if there was any ShotSpotter notification or radio communication pertaining to these gunshots, initially or at any later time during the incident. PO Furegno did not see who fired the shots, but he believed they may have come from the park. PO Furegno did not recall if any of his fellow officers informed him of any pertinent observation they made regarding the gunshots.

According to PO Furegno, "very quickly" after hearing the gunshots, the officers saw § 87(2)(b) turning running through the park. § 87(2)(b) appeared to be alone, but PO Furegno did not remember if there was anyone else anywhere within the park or in the immediate vicinity who also might have been involved with the gun shots.

PO Furegno suspected that § 87(2)(b) might be involved with the gun shots because of his proximity to the location where shots had been fired and because he was running. Subsequently, when the officers approached, § 87(2)(b) changed direction to walk away from them. This further raised PO Furegno's suspicion that § 87(2)(b) might be involved in the shots fired. Lastly, according to PO Furegno, when the officers stopped him, § 87(2)(b) initially refused to take his hands out of his pockets. PO Furegno did not remember if any other factor led him to suspect that § 87(2)(b) might be armed. He did not remember if he saw any visible bulge on § 87(2)(b)'s person, or if it appeared that there might be a heavy object on § 87(2)(b)'s person or in his backpack.

Due to these factors, PO Furegno felt § 87(2)(b)'s bag to check if there was any weapon inside. He believed it was possible that he opened the backpack, but he did not recall specifically. He did not recall reaching into § 87(2)(b)'s pockets.

PO Furegno wrote in his memo book, "One male stopped Pacific Street/Howard in regard to shots fired in vicinity. Male refused to take hands out of pocket. Checked in regard to weapons" (Board Review 06).

§ 87(2)(g)

§ 87(2)(g) Sgt. McCarthy testified that the officers received a ShotSpotter notification regarding shots fired in the area shortly before they saw § 87(2)(b) and not that they heard shots fired in or near the park. PO Tantillo, for his part, stated that there had been several recent reports of shots fired and ShotSpotter activations which remained unsolved. Additionally, while Sgt. McCarthy testified that § 87(2)(b) was running through the park, PO Tantillo testified that § 87(2)(b) was walking.

Note that all officers were interviewed between ten and fifteen months after the incident date. Additionally, the officers testified that the evening in question – New Year’s Eve and the morning of New Year’s Day – was highly eventful, with numerous reports of shots fired, competing priority jobs, and officers calling for assistance.

The 73rd Precinct Event Summary covering the time of the incident does not include any Event pertaining to shots fired during the relevant time frame (Board Review 07; pages 2-5). The incident location is near the borders of the 81st and 77th Precincts, but the 81st and 77th Precinct Event Summaries also include no pertinent report (Board Review 08). However, the officers were consistent in their testimonies that shots had been fired nearby shortly beforehand, and PO Furegno memorialized this in memo book. Further, the 73rd Precinct Event Summary shows a 10-13 (officer in distress) at 3:33 AM, and BWC videos confirm that the officer hurried from their interaction with § 87(2)(b) to provide assistance. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

The BWC videos reveal that PO Furegno did not reach into § 87(2)(b)’s pockets as alleged. However, they confirm that PO Furegno searched § 87(2)(b)’s backpack. As discussed above, PO Furegno’s BWC began recording before PO Tantillo’s. PO Furegno’s BWC video (Board Review 02) shows PO Furegno exiting a vehicle, approaching § 87(2)(b) and then, at the 42 second mark, instructing § 87(2)(b) to remove his hands from his pockets and to take off his backpack. PO Furegno takes the backpack from § 87(2)(b). After this point, the angle of PO Tantillo’s BWC captured PO Furegno’s actions more clearly (Board Review 01). At the beginning of PO Tantillo’s video, PO Furegno takes § 87(2)(b)’s backpack from him and places it on the trunk of a parked sedan. PO Furegno immediately opens the bag and begins to inspect its contents. He searches the bag until the 56 second mark.

PO Furegno reviewed both BWC videos during his CCRB interview. He confirmed that PO Tantillo’s video showed him opening the backpack and inspecting its contents. When asked why he did so, PO Furegno stated that when he removed the backpack from § 87(2)(b) the bag felt very heavy. Due to its weight, he believed there might be a firearm inside of the bag. PO Furegno did not recall if there was any other indication that the bag might contain a firearm. PO Furegno did not recall if he patted down or frisked the bag before opening it. However, the video shows that PO Furegno immediately opened the bag without first patting it down or feeling the shapes of the objects inside.

According to People v. Emerhall, 181 Misc. 2d 400 (1999), a bag that is flexible and whose contents can be felt by touching its exterior must be patted down, and may be opened for a search only when, after a pat down, the officer reasonably believes it contains a weapon (Board Review 09).

Additionally, the ruling in Matter of Jaquan M., 97 A.D.3d 403 (2012) addressed an officer searching an individual’s backpack under similar circumstances (Board Review 10). In that case, an officer searched a bag because the defendant, observed on a public street, was pacing and looking

around; because he was in a drug-prone location; because he removed an object from his waistband and placed it carefully into the backpack; because the backpack appeared to sag from a heavy weight inside; and because, when an officer lifted the bag and felt that it was heavy, the defendant said that there was nothing in the bag. The court rules that despite these factors, the officers did not have probable cause to search the bag, and that the search was illegal.

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno frisked § 87(2)(b)

§ 87(2)(b) testified that PO Furegno patted down his legs, his torso, his groin, and all of his jacket pockets and pants pockets.

PO Furegno stated that he “believed” that he frisked § 87(2)(b). He did so for his and his fellow officers’ safety. He was concerned that § 87(2)(b) might be armed because the officers had heard nearby gunshots, because § 87(2)(b) had been running through the park, because he had changed direction at sight of the officers, and because he initially refused to take his hands out of his pockets. PO Furegno did not remember if any other factor led him to suspect that § 87(2)(b) might be armed. He did not remember if he saw any visible bulge on § 87(2)(b) s person, or if it appeared that there might be a heavy object on § 87(2)(b) s person or in his backpack.

Sgt. McCarthy also believed that an officer frisked § 87(2)(b) but he did not remember which officer did so. Neither PO Tantillo nor PO Grandison recalled any officer frisking § 87(2)(b)

As noted, PO Tantillo’s BWC video captured PO Furegno’s actions most clearly (Board Review 01). In PO Tantillo’s video, at the 55 second mark, PO Furegno finishes searching § 87(2)(b) s backpack. He approaches § 87(2)(b) instructs him to spread his legs, and then pats down § 87(2)(b) s upper body for approximately three seconds before the officers receive an emergency radio communication and return to their vehicle.

According to *De Bour*, a corollary of an officer’s statutory right to temporarily detain an individual for questioning is the authority to frisk if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed. This is also established in NYS CPL 140.50 (Board Review 11).

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Sergeant Arthur McCarthy refused to provide his name to § 87(2)(b)

Allegation (H) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno refused to provide his name to § 87(2)(b)

Allegation (I) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Police Officer Ryan Grandison refused to provide his name to § 87(2)(b)

Allegation (J) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Police Officer Philip Tantillo refused to provide his name to § 87(2)(b)

Allegation (K) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Sergeant Arthur McCarthy refused to provide his shield number to § 87(2)(b)

Allegation (L) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Police Officer Christopher Furegno refused to provide his shield number to § 87(2)(b)

Allegation (M) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Police Officer Ryan Grandison refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that at the conclusion of the interaction, after the frisk and search, he asked all four officers, “Can I have your badge numbers? Let me know your names. What station do you all work at?” PO Tantillo said, “It’s right here” and pointed at the shield displayed on his chest, which bore the number 9988. However, PO Tantillo never provided his name. Further, the other officers never provided him with their names or shield numbers.

Neither Sgt. McCarthy, nor PO Tantillo, nor PO Furegno, nor PO Grandison recalled § 87(2)(b) ever requesting any officer’s name or shield number. They also did not remember if any officer provided § 87(2)(b) with identifying information.

PO Furegno’s BWC was activated before PO Tantillo’s. In PO Furegno’s video (Board Review 02), at the 38 second mark, § 87(2)(b) turns toward Sgt. McCarthy and makes an inaudible statement. Sgt. McCarthy responds, “Seven three” (the officers’ command). Neither video captures any other exchange pertaining to the officers’ identities. The videos do not show § 87(2)(b) ever asking any officer for his name or shield number.

PO Furegno’s BWC video shows that § 87(2)(b) spoke with the officers for at least fifteen seconds before audio began recording. However, § 87(2)(b) alleged that this exchange occurred after the frisk and search, and PO Furegno and PO Tantillo’s BWC videos reveal that no such exchange took place at that time. § 87(2)(g)

Allegation (N) Abuse of Authority: Outside of § 87(2)(b) in Brooklyn, Sergeant Arthur McCarthy failed to provide § 87(2)(b) with a business card.

It is undisputed that no officer provided § 87(2)(b) with a business card.

Sgt. McCarthy was the ranking officer on scene and took responsibility for the stop. He stated that as their interaction with § 87(2)(b) neared its conclusion, he and his fellow officers received an emergency call via radio – possibly a 10-13 (officer in distress) – and hurried into their vehicle in order to assist. Sgt. McCarthy was carrying business cards with him, but he did not provide one to § 87(2)(b) because he and his fellow officers were in a hurry to respond to the emergency radio communication.

Both PO Tantillo and PO Furegno’s BWC videos confirm that the officers’ interaction with § 87(2)(b) was cut short when they received a radio communication (Board Review 01 and 02). Additionally, the 73rd Precinct Event Summary confirms that a 10-13 was relayed at 3:33 AM, consistent with the time stamps of both BWC videos (Board Review 07).

New York City Administrative Code 14-174 – the “Right To Know Act” – requires that officers proactively offer a business card to a civilian at the conclusion of an interaction during which an individual is stopped, frisked, and/or searched (Board Review 13). However, according to the same statute, an officer is not required to comply with this section if exigent circumstances require immediate action by such officer.

§ 87(2)(g)

Allegation (O) Abuse of Authority: At the 73rd Precinct stationhouse, an officer did not process § 87(2)(b) s complaint regarding officers.

Allegation (P) Abuse of Authority: At the 73rd Precinct stationhouse, Sergeant Junkao Zhang did not process § 87(2)(b) s complaint regarding an officer.

§ 87(2)(b) (§ 87(2)(b) s father) stated that when § 87(2)(b) informed him of the above-described interactions, they visited the 73rd Precinct stationhouse together to file a complaint against the officers who had stopped § 87(2)(b). Upon entering the stationhouse, § 87(2)(b) spoke with a white male officer near the entrance. § 87(2)(b) asked to file a complaint against officers who had stopped his son on the street. Rather than complete a complaint report for the § 87(2)(b) the officer brought a supervisor to speak with them.

Lt. Zhang (then a sergeant assigned to the 73rd Precinct) spoke with § 87(2)(b) who repeated that he wished to file a complaint against officers. Lt. Zhang asked the § 87(2)(b) to wait and, instead of filing a complaint on their behalf, brought Sgt. McCarthy to speak with them.

§ 87(2)(g)

Roll call for tour 1 of the 73rd Precinct did not include any officer with a stationhouse assignment who matched § 87(2)(b) s description of the officer in question (Board Review 14). Stationhouse surveillance cameras captured the § 87(2)(b) entering the stationhouse but does not include audio and did not show the identities of any officers with whom they interacted before speaking with Sgt. McCarthy in the stationhouse waiting area (Board Review 15; § 87(2)(g)). As addressed below, Lt. Zhang did not recall this incident and did not recall any other officer interacting with the § 87(2)(b) when they visited the stationhouse. PO Charles Stanley, who returned to the stationhouse shortly after the alleged interaction, also could not identify the officer with whom § 87(2)(b) reportedly spoke. According to PO Stanley,

the officer stationed near the stationhouse entrance might have been the Telephone Switchboard (T/S) Operator, but the 73rd Precinct was unable to provide the T/S log in question (Board Review 16). § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) described the second officer with whom they spoke at the stationhouse as an Asian male. § 87(2)(b) believed him to be a sergeant due to his gold shield and the stripes on the shoulders of his uniform. Per 73rd Precinct roll call (Board Review 14), Lt. Zhang, then a sergeant assigned to the 73rd Precinct, was the only sergeant working at that time who matched the § 87(2)(b) description (Board Review 14). Further, he was assigned to the desk, located near the front entrance.

As stated, Lt. Zhang did not recall interacting with § 87(2)(b) or § 87(2)(b) or any pair of males who were father and son, on or about the date in question. He did not recall any civilian who wished to make a complaint against Anti-Crime officers including Sgt. McCarthy, or against any officers, on or about that date. Lt. Zhang stated that as the Desk Officer, if a civilian wished to file a complaint, he would either provide them with the CCRB's phone number, instruct them how to file a complaint with the CCRB by mail or online, or he would take the report in-person. If they wanted him to take the complaint for them, he would fill out a form and send it to the CCRB and to IAB.

As noted above, stationhouse surveillance cameras captured the § 87(2)(b) entering the stationhouse but does not include audio and did not show the identities of any officers with whom they interacted before speaking with Sgt. McCarthy in the stationhouse waiting area (Board Review 15; § 87(2)(g) ; see 6:18:30 AM).

Lt. Zhang was shown stationhouse surveillance video capturing the § 87(2)(b) entering the stationhouse (Board Review 15). He was unsure whether or not he recognized these individuals. He believed that he might have interacted with them, but his memory was unclear. He thought these individuals may have visited the stationhouse to make a complaint, but he did not remember specifically. However, Lt. Zhang reiterated that if they wanted to make a complaint, he would have taken their complaint. However, he did not recall the interaction in question.

§ 87(2)(g)

Allegation (Q) Abuse of Authority: At the 73rd Precinct stationhouse, Sergeant Arthur McCarthy refused to provide his name to § 87(2)(b)

Allegation (R) Abuse of Authority: At the 73rd Precinct stationhouse, Sergeant Arthur McCarthy refused to provide his shield number to § 87(2)(b)

Allegation (S) Abuse of Authority: At the 73rd Precinct stationhouse, Sergeant Arthur McCarthy did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) and § 87(2)(b) spoke with Sgt. McCarthy in the 73rd precinct stationhouse civilian waiting area at 6:24 AM. No other officer was present for this interaction. Stationhouse surveillance cameras captured their interactions, but the video files do not include any audio (Board Review 15).

§ 87(2)(b) stated that Sgt. McCarthy identified himself as the sergeant responsible for stopping § 87(2)(b). When he asked Sgt. McCarthy, "What's your name?" Sgt. McCarthy responded only, "I'm the sergeant that was there." § 87(2)(b) again asked Sgt. McCarthy for his name, but Sgt. McCarthy responded, "I don't have to do this." Instead of providing his name, Sgt. McCarthy said that he needed to see § 87(2)(b)'s § 87(2)(b) identification. § 87(2)(b) responded that he wished to see Sgt. McCarthy's identification before he would provide his own. However, Sgt. McCarthy refused to provide the requested information. § 87(2)(b) for his part, corroborated his father's allegation, but also said that his father asked for Sgt. McCarthy's shield number, which Sgt. McCarthy also refused to provide. Lastly, both § 87(2)(b) and § 87(2)(b) stated that although § 87(2)(b) expressed to Sgt. McCarthy that he wished to file a complaint about the earlier stop involving § 87(2)(b), Sgt. McCarthy did not ultimately take any action to process their complaint. In the end, they departed from the stationhouse without having filed a complaint and without learning Sgt. McCarthy's identity.

Sgt. McCarthy stated that he introduced himself to § 87(2)(b) by name and acknowledged that he and his officers who had stopped § 87(2)(b)'s son. Sgt. McCarthy took the time to explain to § 87(2)(b) why they had stopped § 87(2)(b) and he believed that § 87(2)(b) was satisfied with the explanation given. According to Sgt. McCarthy, § 87(2)(b) never asked to file a complaint about the incident. Further, Sgt. McCarthy volunteered his name, and he did not recall § 87(2)(b) ever asking for his name or shield number. Sgt. McCarthy also did not remember ever asking § 87(2)(b) for § 87(2)(b) identification.

Lt. Zhang stated that he did not remember summoning Sgt. McCarthy to speak with § 87(2)(b) or § 87(2)(b) and that he did not remember Sgt. McCarthy refusing to provide his name or shield number to § 87(2)(b) or refusing to file a complaint for § 87(2)(b).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g) -

§ 87(4-b), § 87(2)(g) -

§ 87(4-b) § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been a party (Board Review 20).
- § 87(2)(b) [REDACTED] has been party to one other CCRB complaint and has been named as a victim in four other allegations (Board Review 21):

- § 87(2)(b) [REDACTED]
- Lt. Zhang has been a member of service for 16 years and has been a subject in two other cases with three allegations, none of which have been substantiated. § 87(2)(g) [REDACTED]
- Sgt. McCarthy has been a member of service for 11 years and has been a subject in 14 other CCRB complaints with 42 allegations, of which four were substantiated:
 - Case #202002972 involved substantiated stop, frisk, and search allegations. The Board recommended Charges and no NYPD disposition is yet available.
- PO Furegno has been a member of the NYPD for 17 years and has been a subject in six other cases with 11 allegations, one of which was substantiated:
 - Case #201608154 involved a substantiated frisk allegation. The Board recommended Formalized Training and the NYPD imposed the same.
- PO Tantillo has been a member of service for eight years and has been a subject in six other cases with 14 allegations, of which one was substantiated:
 - Case #201903672 involved a substantiated allegation that PO Tantillo failed to provide a civilian with a Right To Know Act card. The Board's recommendation is not available in CTS and the NYPD imposed Instructions.
- PO Grandison has been a member of service for three years and has been a subject in one other CCRB complaint with one allegation, which was not substantiated. § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] declined to mediate this complaint.
- As of April 5, 2021, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regards this to complaint (Board Review 22).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Squad No.: 9

Investigator: <u>Samuel Ross</u>	Inv. <u>Samuel Ross</u>	<u>8/19/2021</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Monique West</u>	IM <u>Monique West</u>	<u>8/24/2021</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date

CCRB Case # 202000032